

RE: 02-231

I strongly object to the FCC's proposal that digital television hardware would be required to acknowledge and enforce a "broadcast flag" as a theoretical means of protecting copyrighted materials.

In my opinion, the FCC has been seriously misled by the entertainment industry as to the need for any such system.

There is no substantial difference whatsoever between the threat to copyright posed by digital television and that of current NTSC broadcast television.

A great deal has been made of the (theoretical) ability of making "perfect copies" of digital programming. While this is a distinct possibility, it really is not germane to the discussion and should be considered a simple "smoke screen" to cover the entertainment industry's genuine agenda.

The ability to make infinitely repeatable "perfect copies" is in no way necessary for commercial piracy of programming. In fact, it really doesn't matter one whit in that arena. Using professional equipment, software, and techniques it is already practical to make virtually perfect copies of any available programming (analog or digital) and then both duplicate and distribute them on an industrial scale. The entertainment industry claims this mass commercial piracy is its prime concern and I agree that it should be. However, my assertion is that the proposed solution is, in fact, no solution at all to that particular problem (despite the assertions of the industry).

The sole useful purpose of this technology (from the perspective of the entertainment industry) is to virtually eliminate the end consumer's ability to make any sort of copy of broadcast programming, something that has been a profound wish of the entertainment industry since VCRs first became available. With VCRs there was no (reasonable) technical way of accomplishing this. And the courts (again, from the perspective of the entertainment industry) have had an annoying habit of ruling that some kinds of end-consumer copying are perfectly

legal under the judicial doctrine of "fair use" of copyrighted material.

Now, with digital technology being what it is and what it is likely to be, the entertainment industry sees a golden opportunity to "stuff the genie back into the bottle" via Federal Regulation. By doing so they completely bypass the entire "fair use" issue by making it impossible for the consumer to effect a copy of the programming in the first place - be it for legal purposes or not.

In my opinion this is the sole effect and purpose of these proposed regulations and the entertainment industry is hoping to ram it through into Regulation by leveraging their content against the Congressionally mandated deadline for the conversion to digital technology. By dragging their feet, they hope to create a crisis within the FCC and then leap to the rescue with this "digital tagging" hidden behind the highly refutable piracy excuse.

In reality this proposal has virtually nothing to do with piracy and everything to do with the entertainment industry's deep-seated desire to intimately control all aspects of consumer access to their products, despite a very satisfactory history of more than 20 years of legitimate consumer choice and flexibility.

I do not favor this proposition and ask that you very carefully consider the true ramifications and effects of these proposed regulations on the average consumer that your organization is in place and empowered to both represent and protect.

Thank you for your kind attention to this matter.  
Sincerely,

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